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4 IN THE UNITED STATES DISTRICT COURT  
5 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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7 AARON HARGROVE,

8 Petitioner,

9 vs.

10 C.K. PLILER, Warden

11 Respondent.

No. 2:03-CV-1141 RRB JFM P

**ORDER**

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13 Petitioner Aaron Hargrove ("Petitioner"), a state  
14 prisoner proceeding through counsel, filed the above-entitled  
15 action, i.e., an application for a writ of habeas corpus, pursuant  
16 to 28 U.S.C. § 2254. The matter was referred to a United States  
17 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local  
18 General Order No. 262.

19 On July 31, 2007, Magistrate Judge John F. Moulds filed  
20 Findings and Recommendations (Docket 40) herein, which were served  
21 on all parties and which contained notice to all parties that any  
22 objections to the Findings and Recommendations were to be filed  
23 within twenty days. Respondent C.K. Pliler ("Respondent") filed

24  
25 ORDER DISMISSING PETITIONER'S

26 APPLICATION FOR WRIT OF HABEAS CORPUS - 1  
2:03-CV-1141-RRB-JFM P

Objections to the Magistrate's Findings and Recommendations at  
Docket 41; following which Plaintiff filed a Reply at Docket 42.

Inasmuch as the Court concludes the issues before it are  
based in law, i.e., legal disputes, and in accordance with the  
provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, the  
Court has conducted a de novo review of the relevant pleadings  
filed in this matter. Having carefully and thoroughly reviewed the  
same, the Court does not concur with all of the Magistrate's  
Findings and Recommendations at Docket 40.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Petitioner's February 5, 2007, Motion for Summary  
Judgment (Docket 29) is **DENIED**;

2. The Findings and Recommendations (Docket 40) filed  
on July 31, 2007, are adopted in-part, i.e., only with respect to  
Juror No. 3;

3. Petitioner's Application for a Writ of Habeas Corpus  
(Docket 1) is **DENIED** in all other respects<sup>1</sup>; and

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<sup>1</sup> Indeed, in conjunction with Batson v. Kentucky, 476 U.S.  
79 (1986), and for additional reasons more carefully articulated  
within the relevant pleadings, the Court concurs with both the  
trial court and the California Court of Appeal for the Third  
Appellate District in that the prosecutor's reasons for preempting  
the three jurors at issue were supported by substantial evidence in  
the record and were not implausible and/or discriminatory.

3. This action is **DISMISSED** with prejudice.

ENTERED this 2<sup>nd</sup> day of October, 2007.

S/RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE